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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,202	07/11/2003	Petros Gebreselassie	PC25311-07-LAV	4181

7590

05/10/2006

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EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/618,202	GEBRESELAASSIE ET AL.	
	Examiner	Art Unit	
	Arthur L. Corbin	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04-24-06, 12-08-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 13, 16 and 24-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>120803</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 13, 16 and 24-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species and invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 24, 2006. Applicant's traversal has been considered but is not convincing since the examination procedure in prior applications does not form a precedent for restriction requirements in subsequent applications. However, applicant's request to examine each member of claim 15 as the elected species is granted.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 is indefinite in reciting "one...steps" (line 2) since it is unclear which steps are intended. Correction is required without new matter.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12, 14, 15, 17-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawlor (6,730,291, col. 4, lines 50-58, col. 12, lines 18-25 and col. 15, lines 18-32). Lawlor discloses a chewing gum composition including malodor

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control absorbing agents, such as 0.5-10% cyclodextrin, and softeners, such as 0.1-10% sodium stearate. Thus, each of these 2 components can be present in the same amount. It would have been obvious to select any of the malodor control agents and any of the softeners disclosed in Lawlor simply depending upon availability and personal preference. The particular form of cyclodextrin (claims 2 and 3) is not critical. Centerfill chewing gums (claim 19) are conventional.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawlor as applied to claims 1-12, 14, 15, 17-20, 22 and 23 above, and further in view of Holme et al (6,685,916, Ex. 3). It would have been obvious to include the sodium stearate in Lawlor as part of a coating applied to the gum core since it is well known to use sodium stearate in a chewing gum composition in either the core portion or as part of a coating applied thereto, as evidenced by Holme et al.

7. Claims 1-12, 14, 15 and 17-23 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Holme et al (6,685,916, cols. 3, 4, 6, 8, 10 and 11 and Ex. 3) or Luo et al (6,696,044, cols. 5-7) in view of Lawlor (6,730,291, col. 12). Both primary references disclose a chewing gum product including 0.5-5% absorbing agent, e.g. talc, and having a coating thereon including 2% of a stain removing agent, e.g. sodium stearate and/or sodium palmitate. In Holme et al, the stain removing agent can alternatively be included in the gum core. It would have been obvious to substitute cyclodextrin for the talc absorbing agent in either primary reference since both are well known absorbing agents which can be used alternatively in chewing gum compositions

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in an amount of about 1-5%, as evidenced by Lawlor (col. 12, lines 18-25). Also, see the last 2 sentences in paragraph no. 5 above.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Day et al (cols. 7 and 10) and Fuisz (cols. 4 and 10) each show a chewing gum composition including cyclodextrin and sodium stearate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur L. Corbin
Primary Examiner
Art Unit 1761
5-8-06